

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

BRIAN ZAHN,  
Plaintiff,  
v.  
BRIAN APPLEBURY, et al.,  
Defendants.

No. CV-05-371-FVS

BRIAN APPLEBURY, et al.,  
Defendants.

**THIS MATTER** comes before the Court based upon plaintiff Brian Zahn's "Request for Clarification/Motion for Reconsideration" and his "Petition for Appointment of Counsel."

## **BACKGROUND**

Brian Zahn alleges he was wrongfully discharged from employment by the U.S. Army Corps of Engineers on January 8, 2001. Earlier, the Court directed the United States Marshals Service to serve Mr. Zahn's complaint. At the same time, the Court dismissed Mr. Zahn's request for relief under 42 U.S.C. § 1985. Mr. Zahn moves to reinstate his § 1985 claim, or, in the alternative, for leave to amend his complaint. Finally, he seeks appointment of an attorney.

## RULING

On February 24, 2006, Mr. Zahn was directed to "explain why he has standing to bring a claim under 42 U.S.C. § 1985(3)." He was advised that "[h]e may satisfy this requirement by showing, for example, that he is a member of a class whose members require special

federal assistance in protecting their civil rights." Mr. Zahn has made no effort to demonstrate he is a member of a class whose members require special federal assistance in protecting their civil rights, nor is there any indication he belongs to such a class. Thus, it would be futile to allow him another opportunity to amend his complaint in an effort to establish standing under § 1985(3). That leaves Mr. Zahn's motion for appointment of counsel. In view of the pleadings and papers he has filed to date, there is no reason to think that his case is extraordinary and that appointment of counsel is warranted. See 28 U.S.C. § 1915(e)(1); *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir.1986) (analyzing predecessor statute).

**IT IS HEREBY ORDERED:**

1. Mr. Zahn's "Request for Clarification/Motion for  
Reconsideration" (**Ct. Rec. 18**) is denied.

2. Mr. Zahn's "Petition for Appointment of Counsel" (**Ct. Rec.  
20**) is denied.

**IT IS SO ORDERED.** The District Court Executive is hereby directed to enter this order and furnish copies to Mr. Zahn and counsel for the defendants.

**DATED** this 24th day of April, 2006.

s/Fred Van Sickle  
\_\_\_\_\_  
Fred Van Sickle  
United States District Judge